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MONTANA LEGISLATIVE HISTORY

Chapter 307 1991

Bill H _____ S 214 Original bill & history ____C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) Mar 12	✓ C	Hearing Date(s) Feb 20	✓ C
_____	____C	_____	____C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out Mar 12	✓ C	Feb 20	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

1/28	FIRST READING		
1/28	FISCAL NOTE REQUESTED		
2/01	FISCAL NOTE RECEIVED		
2/04	FISCAL NOTE PRINTED		
2/08	HEARING		
2/21	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/23	2ND READING PASSED AS AMENDED	48	1
2/25	3RD READING PASSED	43	6
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO NATURAL RESOURCES		
3/14	HEARING		
4/02	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/06	2ND READING CONCURRED	81	12
4/06	ON MOTION RULES SUSPENDED TO PLACE ON 3RD READING THIS DAY		
4/06	3RD READING CONCURRED	87	10
	RETURNED TO SENATE WITH AMENDMENTS		
4/17	2ND READING AMENDMENTS CONCURRED	49	0
4/18	3RD READING AMENDMENTS CONCURRED	44	5
4/23	SIGNED BY PRESIDENT		
4/23	SIGNED BY SPEAKER		
4/23	TRANSMITTED TO GOVERNOR		
4/26	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 644	EFFECTIVE DATE: 10/01/91	

SB 212 INTRODUCED BY BIANCHI, ET AL.
INSTREAM FLOW ACT OF 1991

1/26	INTRODUCED		
1/28	REFERRED TO NATURAL RESOURCES		
1/28	FIRST READING		
1/28	FISCAL NOTE REQUESTED		
2/04	FISCAL NOTE RECEIVED		
2/05	FISCAL NOTE PRINTED		
2/15	HEARING		
2/16	SPONSOR WITHDREW		
2/19	TABLED IN COMMITTEE		

SB 213 INTRODUCED BY TOWE
REVISE METHOD OF NOTICE FOR PROPERTY TAX DEEDS

1/26	INTRODUCED		
1/28	REFERRED TO TAXATION		
1/28	FIRST READING		
1/28	FISCAL NOTE REQUESTED		
1/31	FISCAL NOTE RECEIVED		
2/01	FISCAL NOTE PRINTED		
2/06	HEARING		
2/13	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/14	2ND READING DO PASS MOTION FAILED	18	29
2/14	2ND READING INDEFINITELY POSTPONED	33	15

SB 214 INTRODUCED BY TOWE
INCREASE DOLLAR AMOUNT SUBJECT TO CIVIL JURISDICTION IN CERTAIN COURTS

1/26	INTRODUCED		
1/28	REFERRED TO JUDICIARY		
1/28	FIRST READING		
2/20	HEARING		
2/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/21	2ND READING PASSED	49	0
2/22	3RD READING PASSED	49	0

	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO JUDICIARY		
3/12	HEARING		
3/12	COMMITTEE REPORT—BILL CONCURRED		
3/15	2ND READING CONCURRED	97	0
3/16	3RD READING CONCURRED	97	0
	RETURNED TO SENATE		
3/26	SIGNED BY PRESIDENT		
3/27	SIGNED BY SPEAKER		
3/27	TRANSMITTED TO GOVERNOR		
4/01	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 307	EFFECTIVE DATE: 10/01/91	

SB 215 INTRODUCED BY HARP, ET AL.

CREATE A CAPITAL RESERVE ACCOUNT FOR THE MONTANA HEALTH FACILITY AUTHORITY

BY REQUEST OF MONTANA HEALTH FACILITY AUTHORITY

1/28	INTRODUCED		
1/29	REFERRED TO FINANCE & CLAIMS		
1/29	FIRST READING		
1/29	FISCAL NOTE REQUESTED		
2/04	FISCAL NOTE RECEIVED		
2/04	FISCAL NOTE PRINTED		
2/06	HEARING		
2/07	COMMITTEE REPORT—BILL PASSED		
2/09	2ND READING PASSED	47	0
2/11	3RD READING PASSED	48	0
	TRANSMITTED TO HOUSE		
2/12	FIRST READING		
2/12	REFERRED TO APPROPRIATIONS		
4/03	HEARING		
4/04	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/06	2ND READING CONCURRED	88	2
4/06	ON MOTION RULES SUSPENDED TO PLACE ON 3RD READING THIS DAY		
4/06	3RD READING CONCURRED	94	3
	RETURNED TO SENATE WITH AMENDMENTS		
4/17	2ND READING AMENDMENTS CONCURRED	49	0
4/18	3RD READING AMENDMENTS CONCURRED	49	0
4/22	SIGNED BY PRESIDENT		
4/23	SIGNED BY SPEAKER		
4/23	TRANSMITTED TO GOVERNOR		
4/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 673	EFFECTIVE DATE: 7/01/91	

SB 216 INTRODUCED BY TOWE, ET AL.

REVISE UNEMPLOYMENT INSURANCE LAW ON WORK STOPPAGE TO CONFORM WITH FEDERAL

1/28	INTRODUCED		
1/29	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
1/29	FIRST READING		
1/29	FISCAL NOTE REQUESTED		
2/04	FISCAL NOTE RECEIVED		
2/07	HEARING		
2/07	FISCAL NOTE PRINTED		
2/15	COMMITTEE REPORT—BILL PASSED		
2/19	2ND READING DO PASS MOTION FAILED	21	29
2/19	2ND READING INDEFINITELY POSTPONED	30	20

claimants' access to legal services, as people with no money need contingency fee arrangements.

Ms. VanRiper suggested that the committee add language on page 3, after line 2, clarifying that this applies only to hourly fee basis. She said insurance companies pay very little for payments of attorney fees, so they must come out of awards.

Questions From Committee Members:

Senator Crippen advised Janice VanRiper that he would agree with her on tort cases, and asked if most workers' compensation cases weren't just dealing with an amount. He asked why contingency fees could not be based on a maximum of $90 per hour. Ms. VanRiper replied that if cases won were averaged with cases lost that figure would be less than $90 per hour.

Senator Towe commented that his firm has not taken many cases since the 1987 law.

Closing by Sponsor:

Senator Harp said he was amazed that no attorneys claim to be taking workers' compensation cases in Montana. He told the Committee his intent was not to disallow contingency fees, and said he hoped the Committee would be fair and just with regard to this issue.

HEARING ON SENATE BILL 214

Presentation and Opening Statement by Sponsor:

Senator Tom Towe, District 46, advised the Committee that SB 214 would increase the dollar amounts subject to civil jurisdiction in justice courts and in the small claims division of justice courts. He said the amounts would increase from $3500 to $5000 in justice court, and from $2500 to $3000 in small claims court.

Senator Towe said it makes sense to do this so more non-attorney cases can be handled by the justice courts. He further stated it might make sense to make the figure $5000 for all courts.

Proponents' Testimony:

Justice of the Peace Pedro Hernandez, Billings, said the courts should be more readily available to the people, and added that filing fees are less in justice court.

Riley Johnson, National Federation of Independent Business, said he represented 6400 members in Montana who employ between three and five employees. He told the committee his organization supported the bad check bill in the 1980s and implemented a bad check policy which has reduced them by 80-85 percent (Exhibit #4).

Mr. Johnson said he would like to see the limits raised to cover larger items and to avoid attorney fees.

Patricia Bradley, Montana Magistrates, stated her support of SB 214.

John Cameron, Montana Collectors Association, stated his support of the bill.

Opponents' Testimony:

There were no opponents of SB 214.

Questions From Committee Members:

Senator Halligan asked if it were worth making an exception to handle cars up to $10,000 in value. Judge Hernandez replied he believes $10,000 is too high right now. He stated that some district courts in other states are courts of limited jurisdiction, and that $7500 is used by the National Courts Institute. He added that it might be to the advantage of courts in the larger counties.

Closing by Sponsor:

Senator Towe made no closing comments.

HEARING ON SENATE RESOLUTION 5

Presentation and Opening Statement by Sponsor:

Senator Mazurek advised the Committee SR 5 is the formal presentation confirming the nomination of Judge James Purcell. He requested that testimony from the earlier hearing be included here.

Proponents' Testimony:

There were no proponents of SR 5.

Opponents' Testimony:

There were no opponents of SR 5.

Questions From Committee Members:

There were no questions from the Committee.

Closing by Sponsor:

Senator Mazurek made no closing comments.

EXECUTIVE ACTION ON SENATE BILL 214

Motion:

Discussion:

Amendments, Discussion, and Votes:

Senator Towe stated he would not be adverse to amending the limits to $5000 for the courts or to $7500 for justice courts. He said Justice of the Peace Hernandez believes there would be distinctions in limitations between the courts.

Senator Mazurek commented that the Committee may not want to go too far overboard in setting these limits.

Senator Towe made a motion to raise the court limits to $5000 (3-11-103, MCA). The motion carried unanimously.

Recommendation and Vote:

Senator Towe made a motion that SB 214 DO PASS AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON SENATE BILL 444

Motion:

Discussion:

Senator Towe asked if people on the justice court list would be ineligible for any other list. Senator Pinsoneault replied that would be correct.

Senator Towe said he favored the bill as people don't want to register to vote so they won't be called to serve on juries.

Amendments, Discussion, and Votes:

Recommendation and Vote:

Senator Doherty made a motion that SB 444 DO PASS. The motion carried with all members voting aye except Senator Halligan who voted no.

ROLL CALL

SENATE JUDICIARY COMMITTEE

52nd LEGISLATIVE SESSION -- 1991 Date 20Feb91

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	E		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 214 (first reading copy -- white), respectfully report that Senate Bill No. 214 be amended and as so amended do pass:

1. Title, line 5.
Following: "COURTS"
Insert: ","

2. Title, line 6.
Strike: "AND IN"
Following: "COURTS"
Insert: ", AND CITY COURTS"

3. Title, line 7.
Following: "3-10-301"
Strike: "AND"
Insert: ","
Following: "3-10-1004,"
Insert: "AND 3-11-103,"

4. Page 3, line 11.
Following: line 10
Insert: "Section 3. Section 3-11-103, MCA, is amended to read:

"3-11-103. Exclusive jurisdiction. Except as provided in 3-11-104, the city court has ~~exclusive~~ jurisdiction of:

(1) proceedings for the violation of an ordinance of the city or town, both civil and criminal;

(2) when the amount of the taxes or assessments sought does not exceed ~~$2,500~~ $5,000, actions for the collection of taxes or assessments levied for any of the following purposes, except that no lien on the property taxed or assessed for the nonpayment of the taxes or assessments may be foreclosed in any such action:

(a) city or town purposes;

(b) the erection or improvement of public buildings;

(c) the laying out, opening, or improving of a public street, sidewalk, alley, or bridge;

(d) the acquisition or improvement of any public grounds; and

(e) public improvements made or ordered by the city or town within its limits;

(3) actions for the collection of money due to the city or town or from the city or town to any person when the amount sought, exclusive of interest and costs, does not exceed ~~$2,500~~ $5,000;

(4) when the amount claimed, exclusive of costs, does not exceed ~~$2,500~~ $5,000, actions for:

(a) the breach of an official bond given by a city or town officer;

(b) the breach of any contract when the city or town is a party or is in any way interested;

(c) damages when the city or town is a party or is in any way interested;

(d) the enforcement of forfeited recognizances given to, for the benefit of, or on behalf of the city or town; and

(e) collection on bonds given upon an appeal taken from the judgment of the court in any action mentioned in subsections (4)(a) through (4)(d);

(5) actions for the recovery of personal property belonging to the city or town when the value of the property, exclusive of the damages for the taking or detention, does not exceed ~~$2,500~~ $5,000; and

(6) actions for the collection of a license fee required by an ordinance of the city or town.""

Signed: Richard Pinsoneault
Richard Pinsoneault, Chairman

2-22-91
Amd. Coord.

SR 2-20 5:35
Sec. of Senate

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on March 12, 1991, at 8:08 a.m.

ROLL CALL

Members Present:

Bill Strizich, Chairman (D)
Vivian Brooke, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Dave Brown (D)
Robert Clark (R)
Paula Darko (D)
Budd Gould (R)
Royal Johnson (R)
Vernon Keller (R)
Thomas Lee (R)
Bruce Measure (D)
Charlotte Messmore (R)
Linda Nelson (D)
Jim Rice (R)
Angela Russell (D)
Jessica Stickney (D)
Howard Toole (D)
Tim Whalen (D)
Diana Wyatt (D)

Staff Present: John MacMaster, Leg. Council Staff Attorney
Jeanne Domme, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON SB 214
INCREASE CIVIL JURISDICTION OF JUSTICE'S COURT AND SMALL CLAIMS COURT

Presentation and Opening Statement by Sponsor:

REP. TOWE, SENATE DISTRICT 46, stated that this bill increases Civil Jurisdiction of Justice Courts from $3500 to $5000 and also increase the jurisdiction of small claims courts from $2500 to

$3000. He stated that the bill was brought into the Legislature at the request of Pedro Fernandez, Justice of the Peace. The smaller courts believe they can handle more civil work and relive the District Courts of some of their workload. The District Court always seems to be overburdened and by putting more cases into the Justice Courts the overburden on the District Court could be avoided.

Proponents' Testimony:

Riley Johnson, National Federation of Independent Business, stated that the members of the NFIB really uses the small claims courts in disputes over supplies, suppliers and saves them a lot of money. He felt that one benefit of raising the small claims court is that small appliances run in the area of $2500 to $3000 for the members that deal in that business and it would be easier and less expenses to take care of their cases in the small claims courts. He encouraged the committee for their favorable consideration of SB 214 to help the small business community to avoid some of the higher costs of handling small claims in civil matters.

Tom Hopgood, Montana Association of Realtors, stated that his association supports SB 214. He stated there are occasions where a real estate commission or an escrow fee becomes controversial and the association believes that it is in the best interest of the members of the association to have easy access to the courts of small jurisdiction. He asked the committee for their support of the bill.

Bob Ryfer, Vice President - Montana Credit Unions League, stated that credit unions find themselves in small claims courts and the League feels that SB 214 will improve the overall emancipation of justice and lower some costs. He urged the committee for their do pass recommendation.

John Cameron, Montana Collections Association, stated the his association is in support of SB 214 and urges the committee for their support.

Opponents' Testimony: NONE

Questions From Committee Members: NONE

Closing by Sponsor:

SEN. TOWE stated that it only costs $25 to file a claim in Justice Courts and $100 to file in District Court. He felt that it was quite a large savings for the small business citizens of Montana.

Pat Bradly, Montana Magistrates Association, gave written testimony in favor of SB 214. EXHIBIT 1

debts by the transfer of property. The main reason the bill comes to the committee is modernization of the old Fraudulent Transfer Act in the state and it arises because the changes of the old bankruptcy act necessitate for the revisiting of how this was dealt with in the past.

Proponents' Testimony: NONE

Opponents' Testimony: NONE

Questions From Committee Members:

REP. BOHARSKI asked SEN. MAZUREK if he felt that the bill now makes it a little more difficult to file bankruptcy? SEN. MAZUREK stated that the bill will not effect someone's ability to file bankruptcy because that is determined by Federal Law. The changes relate to the definition of when someone is insolvent. When someone is insolvent and transfers property then there is a presumption created that the transfer was fraudulent. This bill narrowly defines the term insolvency to tighten up the definition.

Closing by Sponsor: NONE

EXECUTIVE ACTION ON SB 214

Motion/Vote: REP. GOULD MOVED SB 214 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON SB 228

Motion: REP. GOULD MOVED SB 228 BE CONCURRED IN.

Discussion:

REP. DARKO stated that she was asked by Sen. Svrcek to move the amendments he had prepared by Greg Petesch. EXHIBIT 5

Motion: REP. DARKO moved to amend SB 228 with proposed amendments by Sen. Svrcek.

Discussion:

REP. BROWN stated that a lawyer doing a reasonable business in Montana is not going to take the jump to be a judge because of the low salary. He felt that the Senate kept the salary down to

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL DATE 3-12-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	✓		
REP. ARLENE BECKER	✓		
REP. WILLIAM BOHARSKI	✓		
REP. DAVE BROWN	✓		
REP. ROBERT CLARK	✓		
REP. PAULA DARKO	✓		
REP. BUDD GOULD	✓		
REP. ROYAL JOHNSON	✓		
REP. VERNON KELLER	✓		
REP. THOMAS LEE	✓		
REP. BRUCE MEASURE	✓		
REP. CHARLOTTE MESSMORE	✓		
REP. LINDA NELSON	✓		
REP. JIM RICE	✓		
REP. ANGELA RUSSELL	✓		
REP. JESSICA STICKNEY	✓		
REP. HOWARD TOOLE	✓		
REP. TIM WHALEN	✓		
REP. DIANA WYATT	✓		
REP. BILL STRIZICH, CHAIRMAN	✓		

HOUSE STANDING COMMITTEE REPORT

March 12, 1991

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 214 (third reading copy -- blue) be concurred in.

Signed: _____
Bill Strizich, Chairman

Carried by: Rep. Gould

Montana Magistrates Association

EXHIBIT 1
DATE 3-12-91
SB 214

March 12, 1991

SB 214, an act to increase civil jurisdiction and small claims jurisdiction in justice courts.

Testimony by Pat Bradley, Lobbyist for MMA
before the House Judiciary committee

Mr. Chairman and Committee Members:

Every legislative session, the jurisdiction of the courts of limited jurisdiction increases. Judges, through their continuing legal education under the auspices of the Supreme Court, rise to the occasion.

The expansion of jurisdiction to justice courts helps to ease the workload for district courts. Conversely, it taxes the time and operating expenses of the lower courts. The judges trust that with growing duties the legislature bestows on them, confidence and support will continue to follow.

The judges of the Montana Magistrates Association support SB 214.

Thank you.

Pat Bradley